

REMARKS

This application has been reviewed in light of the non-final Office Action mailed on October 27, 2008. Claims 1-20 are pending in the application with Claims 1, 15 and 19 being in independent form. By the present Amendment, Claim 3 has been amended.

In the non-final Office Action, Claim 3 is objected to. Claim 3 has been amended in a manner which is believed to obviate the objection. Accordingly, withdrawal of the objection is respectfully requested.

Claims 1-20 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Publication No. 2002/0003798A1 issued to Sato et al. (Sato et al.). The rejection is respectfully traversed.

Each of independent Claims 1, 15 and 19 recite “the subsequent transmitter behaviour corresponding to at least two non-contiguous ones of the quality ranges is identical.” It is respectfully submitted that Sato et al. does not disclose or suggest this claim language recited by Applicants’ independent Claims 1, 15 and 19.

Sato et al. is directed to a method for providing a multicast service from an information delivery apparatus to wireless terminals through wireless routes. The method includes the step of transmitting, from the information delivery apparatus, a plurality of sets of multicast information, wherein these sets are identical to each other as to contents thereof but differ in transmission conditions. The method further includes the step of receiving, at any given one of the wireless terminals, one of the sets of multicast information being transmitted under one of the differing transmission conditions.

The Examiner states in the Office Action with reference to Sato et al. “The mobile terminals A-D, and H-L are non-contiguous for different transmission rates and reception

qualities; moreover they receive the same multicast data from the information delivery apparatus i.e. the transmitter behavior is identical for non-contiguous quality ranges.” Applicants respectfully disagree with the Examiner’s understanding of the teachings of Sato et al. Even though the mobile terminals of Sato et al. receive the same multicast data from the information delivery apparatus, there is no disclosure or suggestion by Sato et al. that the transmitter behavior is identical for non-contiguous quality ranges as the Examiner asserts.

In fact, Sato et al. teaches away from the claimed language of Applicants’ independent Claims 1, 15 and 19. The mobile terminals, according to Sato et al., “receive a plurality of sets of multicast information, wherein these sets are identical to each other as to contents thereof but *differ in transmission conditions.*” (Emphasis added) In order to differ in transmission conditions, the transmitter behavior corresponding to the transmission of each set of multicast information must be different. This is in contrast to Applicants’ claim language of “the subsequent transmitter behaviour corresponding to at least two non-contiguous ones of the quality ranges is identical.”

Accordingly, withdrawal of the rejection under 35 U.S.C. §102(b) and allowance of independent Claims 1, 15 and 19 are respectfully requested.

Dependent Claims 2-14, 16-18 and 20 depend from independent Claims 1, 15 or 19 and therefore include the limitations of these independent claims. Therefore, for at least the reasons given above regarding the patentability of independent Claims 1, 15 and 19, dependent Claims 2-14, 16-18 and 20 are also patentable over the prior art of record. Accordingly, withdrawal of the rejection under 35 U.S.C. §102(b) and allowance of dependent Claims 2-14, 16-18 and 20 are respectfully requested.

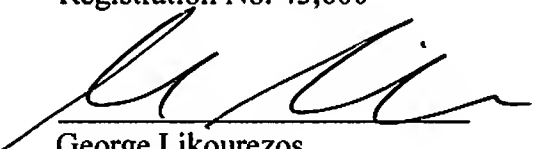
In view of the foregoing remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1-20, are believed to be in condition for allowance.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call the undersigned.

Respectfully submitted,

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